

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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NOVARTIS VACCINES AND  
DIAGNOSTICS, INC., NOVARTIS  
PHARMA AG, and GRIFOLS WORLDWIDE  
OPERATIONS LIMITED,

Plaintiffs,

v.

REGENERON PHARMACUETICALS, INC.,

Defendant.

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Civil Action No. 1:18-cv-02434 (DLC)

**DECLARATION OF HEINZ J. SALMEN, ESQ., IN SUPPORT OF  
PLAINTIFFS' SECOND OPENING CLAIM CONSTRUCTION BRIEF**

I, Heinz J. Salmen, being of full age, hereby declare as follows:

1. I am an attorney-at-law and am a partner of the law firm of RAKOCZY MOLINO MAZZOCHI SIWIK LLP, 6 West Hubbard Street, Suite 500, Chicago, Illinois 60654.

2. I serve as outside counsel for Plaintiffs Novartis Vaccines and Diagnostics, Inc., Novartis Pharma AG, and Grifols Worldwide Operations Limited (collectively, “Novartis”) in the above-captioned matter. I was admitted *pro hac vice* in the above-captioned action as counsel for Novartis on March 23, 2018.

3. I am a member in good standing of the Bar of the State of Illinois (2005) and the United States Court of Appeals for the Federal Circuit (2013).

4. I submit this Declaration in support of Plaintiffs’ Second Opening Claim Construction Brief, filed concurrently herewith on July 19, 2019.

5. I have personal knowledge of the facts stated in this Declaration and am competent to testify to the same.

6. More specifically, I submit this Declaration to authenticate and provide to the Court certain documents cited to and referenced in the following:

- Plaintiffs’ Second Opening Claim Construction Brief, submitted concurrently herewith; and
- Declaration of Kathryn Calame, Ph.D., In Support of Plaintiffs’ Second Opening Claim Construction Brief, dated July 19, 2019, submitted concurrently herewith.

7. Attached hereto as Exhibit 1 is a true and correct copy of excerpts of the certified prosecution file history of United States Patent No. 5,688,688.

8. Attached hereto as Exhibit 2 is a true and correct copy of excerpts of the certified *ex parte* reexamination prosecution history of United States Patent No. 5,688,688.

9. Attached hereto as Exhibit 3 is a true and correct copy of Regeneron Pharmaceuticals, Inc.'s ("Regeneron") September 28, 2018 Proposed Terms for Construction.
10. Attached hereto as Exhibit 4 is a true and correct copy of Novartis' September 28, 2018 Disclosure of Proposed Claim Terms of U.S. Patent No. 5,688,688 for Construction.
11. Attached hereto as Exhibit 5 is a true and correct copy of a June 10, 2019 email correspondence from Irena Royzman.
12. Attached hereto as Exhibit 6 is a true and correct copy of the April 25, 2013 Expert Report of Joseph Sodroski, M.D.
13. Attached hereto as Exhibit 7 is a true and correct copy of Regeneron's September 14, 2018 Preliminary Invalidity Contentions.
14. Attached hereto as Exhibit 8 is a true and correct copy of excerpts of the April 5, 2019 Expert Report of Michael Green, M.D., Ph.D.
15. Attached hereto as Exhibit 9 is a true and correct copy of excerpts of the May 31, 2019 Expert Rebuttal Report of Michael Green, M.D., Ph.D.
16. Attached hereto as Exhibit 10 is a true and correct copy of excerpts of the publication DORLAND'S ILLUSTRATED MEDICAL DICTIONARY (27th ed.1988).
17. Attached hereto as Exhibit 11 is a true and correct copy of excerpts of the publication ROBERT C. KING & WILLIAM D. STANSFIELD, A DICTIONARY OF GENETICS (3rd ed. 1985).
18. Attached hereto as Exhibit 12 is a true and correct copy of the publication Martin L. Privalsky, *Creation of a Chimeric Oncogene: Analysis of the Biochemical and Biological Properties of a v-erbB/src Fusion Polypeptide*, 61 J. VIROLOGY 1938-48 (1987).
19. Attached hereto as Exhibit 13 is a true and correct copy of the publication Eric Alani & Nancy Kleckner, *A New Type of Fusion Analysis Applicable to Many Organisms: Protein Fusions to the URA3 Gene of Yeast*, 117 GENETICS 5, 8 (1987).

20. Attached hereto as Exhibit 14 is a true and correct copy of the publication Czeslaw Wychowski et al., *A Domain of SV40 Capsid Polypeptide VP1 that Specifies Migration into the Cell Nucleus*, 5 EMBO J. 2569 (1986).

21. Attached hereto as Exhibit 15 is a true and correct copy of the publication Jocelyn Holash et al., *VEGF-Trap: A VEGF Blocker with Potent Antitumor Effects*, 99 PROC. NAT'L ACAD. SCI. U.S.A. 11393, 11397 (2002).

22. Attached hereto as Exhibit 16 is a true and correct copy of excerpts of the June 28, 2019 Reply Expert Report of Robert Benezra, Ph.D.

23. Attached hereto as Exhibit 17 is a true and correct copy of excerpts of the May 24, 2013 Rebuttal Report of Joseph Sodroski.

24. Attached hereto as Exhibit 18 is a true and correct copy of the publication Mark F. Stinski & Hiroki Isomura, *Role of the Cytomegalovirus Major Immediate Early Enhancer in Acute Infection and Reactivation from Latency*, 197 MED. MICROBIOLOGY IMMUNOLOGY 223, 226 (2007).

I, Heinz J. Salmen, hereby declare under penalty of perjury under 28 U.S.C. § 1746 and the laws of the United States of America, that the foregoing Declaration is true and correct.

Dated: July 19, 2019

  
Heinz J. Salmen